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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:	:	Chapter 11
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LEHMAN BROTHERS HOLDINGS INC., et al.,	:	Case No. 08 – 13555 (JMP)
	:	
Debtors.	:	(Jointly Administered)
	:	
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**JOINDER OF BANK OF AMERICA, N.A. IN THE MOTION OF THE WALT
DISNEY COMPANY FOR THE APPOINTMENT OF AN EXAMINER
PURSUANT TO SECTION 1104(c)(2) OF THE BANKRUPTCY CODE**

Bank of America, N.A. and certain of its affiliates (collectively, "Bank of America") hereby submits this joinder (this "Joinder") to the motion (the "TWDC Examiner Motion") of The Walt Disney Company ("TWDC") for the appointment of an examiner pursuant to section 1104(c)(2) of title 11 of the United States Code (the "Bankruptcy Code"), dated October 20, 2008. In support thereof, Bank of America respectfully represents as follows:

1. Bank of America is a creditor of Lehman Brothers Holding, Inc. ("LBHI") and its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors in possession (together, the "Debtors" and, collectively with their non-debtor affiliates, the "Lehman Entities"). Bank of America, among other things, has (i) claims against LBHI that

arise out of LBHI's unconditional guaranty of the obligations of certain Lehman Entities under certain ISDA master agreements among Bank of America and those Lehman Entities; and (ii) claims against Lehman Brothers Commodity Services Inc. ("LBCS") and Lehman Brothers Special Financing Inc. ("LBSF") that arise out of the close-out of transactions under ISDA master agreements that Bank of America entered into with these entities.

2. On September 15, 2008, LBHI commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code. On September 16, 2008, LB745 LLC commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code.

3. On September 17, 2008, the United States Trustee for the Southern District of New York appointed the statutory committee of unsecured creditors (the "Committee") pursuant to section 1102 of the Bankruptcy Code.

4. On September 19, 2008, a proceeding was commenced under the Securities Investor Protection Act of 1970 ("SIPA") with respect to Lehman Brothers Inc. ("LBI"). A trustee appointed under SIPA is administering LBI's estate.

5. After the appointment of the Committee and the commencement of the SIPA proceeding, certain other subsidiaries of LBHI, including LBCS and LBSF, commenced with this Court voluntary cases under chapter 11 of the Bankruptcy Code.

6. The Debtors' chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

7. On September 26, 2008, Harbinger Capital Partners Special Situations Fund, L.P. and Harbinger Capital Partners Master Fund I, Ltd. (together, the “Harbinger Funds”) filed a motion for leave to conduct Bankruptcy Rule 2004 discovery of LBHI (the “Harbinger Rule 2004 Motion”). The Harbinger Rule 2004 Motion seeks, among other things, discovery “concerning the movement of property between and among LBHI and its affiliates.” On October 10, 2008, the Harbinger Funds filed a supplement to the Harbinger Rule 2004 Motion. Numerous parties in interest, including Bank of America, have joined the Harbinger Rule 2004 Motion.

8. On October 20, 2008, TWDC filed the TWDC Examiner Motion. By the TWDC Examiner Motion, TWDC seeks the appointment of an examiner to, *inter alia*, conduct an investigation of LBHI and its direct and indirect subsidiaries, and their respective directors and senior officers, in respect of the following issues: (i) intercompany accounts among LBHI and its direct and indirect subsidiaries as of LBHI’s petition date; (ii) administrative claims LBHI incurred to its direct and indirect subsidiaries since it commenced its chapter 11 case; (iii) prepetition acts and omissions from and after March 16, 2008 in respect of LBHI’s officers and directors and the officers and directors of LBHI’s direct and indirect subsidiaries impacting their respective fiduciary duties of care, loyalty, and good faith; (iv) postpetition acts and omissions in respect of LBHI’s officers and directors and the officers and directors of LBHI’s direct and indirect subsidiaries impacting their respective fiduciary duties of care, loyalty, and good faith; (v) whether LBHI’s direct and indirect subsidiaries took any steps to protect their respective enterprises and constituencies in connection with the sale to Barclays Capital, Inc.; and (vi) what nondebtor subsidiaries of LBHI did with their cash after LBHI commenced its chapter 11 case.

9. Bank of America hereby joins in the TWDC Examiner Motion. As described in the TWDC Examiner Motion, there are significant issues in these cases, including the movement of property among LBHI and its subsidiaries (with a particular focus on property provided to LBHI and its subsidiaries by third parties as collateral for derivatives trades), that warrant investigation by an examiner. Bank of America believes that the appointment of an examiner in these cases would facilitate the collection, analysis, and dissemination of information regarding those issues in an efficient, cost-effective and orderly manner.

10. The appointment of an examiner should benefit the Debtors' estates as it would reduce the need for separate discovery by parties in interest under Bankruptcy Rule 2004 by allowing parties to defer to the examiner with respect to general issues within the scope of the examiner's investigation, and free them to focus instead on discovery specific to their respective claims. In that regard, although the TWDC Examiner Motion discusses most prominently LBHI and Lehman Brothers Commercial Corp ("LBCC"), the scope of the investigation actually requested by TWDC in the TWDC Examiner Motion in fact extends to LBHI and each of its subsidiaries, not just LBCC. Bank of America concurs with the approach embodied in TWDC's specific request for relief: the investigation should extend to LBHI and all of its subsidiaries, not just LBCC.

11. With the scope of the required investigation extending to LBHI and all of its subsidiaries, an examiner would be a more appropriate entity to investigate the movement of property among LBHI and its subsidiaries and the other matters raised in the TWDC Examiner Motion, than would the Committee. As noted in the TWDC Examiner Motion, the Committee is comprised of creditors that principally have a focus on claims at LBHI (as the other Debtors had not yet filed chapter 11 petitions at the time that the Committee was appointed). Moreover, by

its nature, a publicly filed formal report by an examiner detailing the examiner's findings on all of the issues that it investigates would provide a more open forum for creditors to obtain the benefits of an investigation than would a Committee investigation.

WHEREFORE, for the reasons set forth above and in the TWDC Examiner Motion, Bank of America respectfully requests that this Court enter an order appointing an examiner to conduct an investigation of LBHI and its direct and indirect subsidiaries, and their respective directors and senior officers, in respect of the issues described herein.

Dated: New York, New York
October 31, 2008

SHEARMAN & STERLING LLP

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